

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SHAWN MICHAEL SNYDER,

Plaintiff,

v.

**Civil Action No.
9: 05-CV-01284
(TJM/DEP)**

GLENN S. GOORD, *et al.*,

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. David E. Peebles, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c). The Report, Recommendation and Order dated February 27, 2007 recommended

that defendants' motion for summary judgment dismissing plaintiff's complaint (Dkt. No. 20) be GRANTED, in part, and that plaintiff's legal mail claim be DISMISSED in its entirety, and further that all remaining claims be DISMISSED as against defendants Goord, Roy, Plescia and Miller, but that it otherwise be DENIED, and that the matter proceed with regard to plaintiff's constitutional claims against defendants Whittier and Funnye based upon events occurring at the Washington Correctional Facility.

Rep., Rec. & Ord., p. 33.

Plaintiff and Defendants have filed objections to the Report-Recommendation. When objections to a magistrate judge's Report-Recommendation are lodged, the Court reviews the record *de novo*. See 28 U.S.C. § 636(b)(1). After such a review, the Court

may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge]. The [Court] may also receive further evidence or recommit the matter to the magistrate [judge] with instructions.” Id.

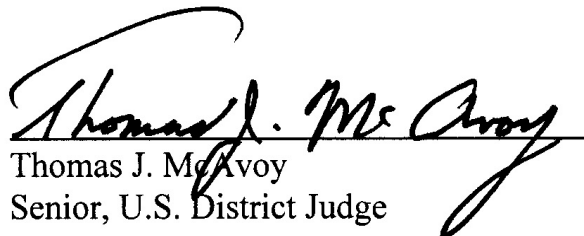
Having reviewed the record *de novo* and having considered the issues raised in the objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Peebles for the reasons stated in the February 28, 2007 Report-Recommendation with one modification as set forth below.

In this regard, it is hereby

ORDERED that Defendants’ motion for summary judgment [dkt. No. 20] is **GRANTED in part and DENIED in part**. Plaintiff’s legal mail claim is **DISMISSED in its entirety**. Further all remaining claims against Defendants Goord, Roy, Plescia and Miller are **DISMISSED**. The motion is denied with regard to Plaintiff’s constitutional claims against Defendants Whittier and Funnye based upon events occurring at the Washington Correctional Facility, but Defendants are **granted leave to renew** the motion following a period of discovery. Accordingly, Defendants may assert in their renewed motion, should they decide to file one, that Plaintiff failed to exhaust his administrative remedies by failing to promptly file a grievance once at Groveland Correctional Facility.

IT IS SO ORDERED.

DATED: March 29, 2007


Thomas J. McAvoy
Senior, U.S. District Judge